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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,700	09/28/2000	Allan J. Schurr	SiE-1160	3389

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EXAMINER

PATEL, RAMESH B

ART UNIT	PAPER NUMBER
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2121

DATE MAILED: 03/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

7

Office Action Summary

Application N .

09/677,700

Applicant(s)

SCHURR ET AL.

Examiner

Ramesh B. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2, 4-5</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-15 are presented for examination.

Information Disclosure Statement

2. The information disclosure statements (IDS) submitted on 4/24/2002, 4/29/2002 and 5/19/2003 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

Drawings

3. The drawings are objected to because drawings are appears to be informal. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claim 12 is objected to because of the following informalities:
Claim 12, line 5, includes the term "including" should be "including:".
Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Woolard et al. (US Patent 6,178,362).

As to claims 1, 6-7, 12 and 15, Woolard teaches the invention including a system for performing energy usage management within a network as shown in figure 1, element 12, comprising: an energy management system (12) associated with an energy consuming entity is taught as the energy manager and facility manager connected in the network for managing energy as shown in figures 1-2 (see, figures 1-2 and col. 2, lines 21-36); a server remote from the energy consuming entity for performing one or more

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energy curtailment management operations within the network, the server being communicatively connected to the energy management system over the network and having a software application thereon for remotely controlling the energy management system in accordance with particular energy curtailment management operation is taught as the energy management connected with different facility through server and remote from the facility or the entity and managed through network (see, abstract and figures 1-2 and col. 1, line 65 to col. 2, line 20 and col. 1, lines 7-22); a database associated with the server for storing curtailment event information relating to the network is taught as the alarm manager is connected to network for recording events and alarming the facility if necessary in the event detected and to take necessary action to manage and control the network wherein various databases are connected to network for supporting the network as shown in figure 2 (see, abstract and figure 2 and col. 5, lines 1-29); an indoor temperature indicator module for monitoring the current temperature of the entity, a temperature setpoint module for establishing operating temperature points for the energy management system, a system setting module for activating the energy management system and for selecting the mode of operation of the energy management system and a curtailment event override module for overriding an active curtailment event is taught as facility manager 44 of figure 2 is capable of accessing data from the existing building control system as well as newly installed systems for data monitoring and collection processes which may include monitoring, trending and archiving data from temperature, pressure, flows, levels, set points and states about systems such as HVAC systems, boilers, chillers, cooling towers,

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generators, compressors, motors and pumps and lighting (see, abstract and figures 2-3 and col. 6, line 55 to col. 7, line 40).

As to claims 2 and 13, Woolard teaches the system wherein the energy consuming entity is a residence (see, abstract and col. 6, line 55 to col. 7, line 40).

As to claims 3-5, 8-11 and 14, Woolard teaches the system wherein the energy management system is a thermostat device, wherein a signal is transmitted by the server to the thermostat device to alter an offset temperature setting of the thermostat device wherein the thermostat device includes a networking software application for enabling the remote and monitoring and controlling of the thermostat device is taught as facility manager 44 of figure 2 is capable of accessing data from the existing building control system as well as newly installed systems for data monitoring and collection processes which may include monitoring, trending and archiving data from temperature, pressure, flows, levels, set points and states about systems such as HVAC systems, boilers, chillers, cooling towers, generators, compressors, motors and pumps and lighting (see, abstract and figures 2-3 and col. 6, line 55 to col. 7, line 40).


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh B. Patel whose telephone number is 703-308-6673. The examiner can normally be reached on M-Th; 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anil Khatri can be reached on 703-305-0282. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-9051 for regular communications and 703-305-3718 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.


Ramesh B. Patel
Primary Examiner
Art Unit 2121

February 29, 2004